



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SOUTH TEXAS HEALTH SYSTEM
3255 W. PIONEER PKWY
ARLINGTON TX 76013

DWC Claim #:

Injured Employee:

Date of Injury:

Employer Name:

Insurance Carrier #:

Respondent Name

ACIG INSURANCE CO

Carrier's Austin Representative Box

47

MFDR Tracking Number

M4-09-4138-01

MFDR Date Received

December 12, 2008

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated December 10, 2008: "HRA has been hired by South Texas Health System to audit their Workers Compensation claims. We have found that the insurance has not paid the appropriate reimbursement according to the Acute Care Inpatient Hospital Fee Guideline. Per the ACIHFG, claims with charges over \$40,000 are to be payable at 75% of charges. We don't believe this rule has been changed legislatively as of today; therefore, we are still expecting carriers to reimburse as such. The cost of high dollar implants is increasing which, in turn, has affected our cost per claim. Though we appreciate DWC of TDI's research stating that when the ACIHFG was updated, there were not as many high dollar (stoploss) claims as there are currently. While this may be true, hospitals can attribute a higher influx of stoploss claims better (and in most cases) more expensive implantables as is the case with the attached claim ... The insurance is short \$4,865.25."

Amount in Dispute: \$4,865.25

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated December 30, 2008: "We have submitted your request, along with the full set of enclosures to the bill review company, CorVel Corporation of a third review and response for this MDR. At this time, we have not change in our position in regards to the prior bill audits and subsequent payments:

Check No. 20715 3/5/08 \$44,940.75

Check NO. 20762 3/7/08 8,688.00

Response Submitted by: ACIG c/o Neva Pro Risk Solutions

Respondent's Supplemental Position Summary Dated January 12, 2009: " This follows our letter dated December 30, 2008, and serve as a Supplemental Response to this Medical Fee Dispute Resolution Request. Please find attached explanation of audit from CorVel Corporation for your review."

Response Submitted by: Nova Pro Risk Solutions

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
December 10, 2007 through December 20, 2007	Inpatient Hospital Services	\$4,865.25	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.240, 31 *Texas Register* 3544, effective May 2, 2006, sets out the procedures for medical payments and denials.
2. 28 Texas Administrative Code §133.2, 31 *Texas Register* 3544, effective May 2, 2006, sets out the definition of final action.
3. 28 Texas Administrative Code §133.305 and §133.307, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, sets out the procedures for resolving medical fee disputes.
4. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- 214 – 75% of Reasonable & Customary Charge
- W10 – Payment based on fair & reasonable methodology
- 168 – No additional allowance recommended
- W4 – No additional payment allowed after review
- ORC – See additional information

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each party was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed to the division by the requestor and respondent as noted above is considered. Consistent with the Third Court of Appeals' November 13, 2008 opinion, and 28 Texas Administrative Code §134.401(c)(6), the division will address whether the requestor demonstrated that: audited charges **in this case** exceed \$40,000; the admission and disputed services **in this case** are unusually extensive; and that the admission and disputed services **in this case** are unusually costly.

1. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states "...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, (A) (v) of that same section states "...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed..." The division concludes that the total audited charges exceed \$40,000.
2. The requestor in its original position statement asserts that "HRA has been hired by South Texas Health System to audit their Workers Compensation claims. We have found that the insurance has not paid the appropriate reimbursement according to the Acute Care Inpatient Hospital Fee Guideline. Per the ACIHFG, claims with charges over \$40,000 are to be payable at 75% of charges. We don't believe this rule has been changed legislatively as of today; therefore, we are still expecting carriers to reimburse as such. As noted above, the Third Court of Appeals in its November 13, 2008 rendered judgment to the contrary. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services." The requestor failed to discuss or demonstrate that the particulars of the admission in dispute involved unusually extensive services, therefore, the division finds that the requestor did not meet 28 TAC §134.401(c) (6).
3. The third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." In its position statement, the requestor states "The cost of high dollar implants is increasing which, in turn, has affected our cost per claim. Though we appreciate DWC of TDI's research stating that when the ACIHFG was updated, there were not as many high dollar (stoploss) claims as there are currently. While this may be true, hospitals can attribute a higher influx of stoploss claims better (and in most cases) more expensive implantables as is the case with the attached claim." The requestor fails to demonstrate that the **costs** associated with the implantables are unusual when compared to similar surgeries, services or admissions. The requestor failed to demonstrate that the particulars of the admission in dispute constitutes unusually costly services; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c)(6).
4. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission..." The length of stay was ten days. The surgical per diem rate of \$1,118.00 multiplied by the length of stay of ten days results in an allowable amount of \$2,236.00.
 - 28 Texas Administrative Code §134.401(c)(4)(C) states "Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." A review of the submitted itemized statement finds that the requestor billed for Morphine Sulf for at total charge of \$888.00. The requestor did not submit documentation to support what the cost to the hospital was for Morphine Sulf. For that reason, reimbursement for these items cannot be recommended.

The division concludes that the total allowable for this admission is \$11,180.00. The respondent issued payment in the amount of \$53,628.75. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to discuss and demonstrate that the disputed inpatient hospital admission involved unusually extensive, and unusually costly

services. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

October 5, 2012
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.